

**REPORT OF THE JUDICIAL RESOURCES COMMISSION  
TO THE SUPREME COURT  
AND GENERAL ASSEMBLY  
CY 1997**

**PREPARED PURSUANT TO §476.415, RSMo**

**JUDICIAL RESOURCES COMMISSION  
1997**

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Since issuing its first report in 1991, the Judicial Resources Commission has met annually to review the state of the judiciary and make recommendations as needed. The following is the report for Calendar Year 1997.

#### **UNFUNDED LEGISLATION**

Legislation which is passed without appropriations to handle the increased workload continues to cause difficulties for the judiciary. Requests for additional FTE based on fiscal notes have gone unfunded. No additional FTE were appropriated for the circuit courts in FY 98. The trial courts are constitutionally obligated to deal with any and all cases filed in a fair and just manner without delay (Article I §14). The clerical and support staff to process the cases, get the parties before the judge and handle dispositional work requires state-funded personnel (\$483,245).

The numbers of cases being filed in Missouri's circuit courts continue to grow. The courts cannot control the volume of cases filed, and must try to administer justice in each case in a timely fashion. The Supreme Court has, by rule, established case processing time standards for civil and criminal cases. Over the last 10 years, the volume of case filings has increased from 864,493 cases in FY 88 to 907,695 in FY 97, an increase of 43,202 cases or 5.0%, while about 55,000 ordinance cases were transferred out of the state courts. The growth in case filings is entirely attributable to two types of cases, criminal and domestic relations, as shown in the following table:

<u>Case Type</u>	<u>FY 88</u>	<u>FY 97</u>	<u>Increase</u>	<u>%</u>
Felony (Circuit)	19,629	32,767	13,138	66.9%
Misdemeanor (Associate)	84,139	111,172	27,033	32.3%
Domestic Relations	62,679	99,623	36,944	58.9%
	166,447	243,562	77,115	46.3%

In addition, the work required of circuit clerks' offices in handling child support payments has continued steady growth, setting new records each year. Growth in filings and in child support workload places extraordinary pressures on the support staff of courts, which are challenged to expedite the disposition of cases. There is a delay in the switch of child support collection from the courts to DCSE, and considerable uncertainty as to the outcome of welfare reform legislation. Without additional FTE, the courts cannot continue to function effectively. **The statistical based weighted workload system indicates that circuit courts are currently 231.6 FTE below the number needed.** The FY 99 budget contains a request for an additional 147.19 FTE.

Another problem that has become apparent is the gap that is created by funding being increased to law enforcement and corrections without proportional increases occurring for courts, prosecution, and the public defender system. One of the most immediate manifestations of this gap is the increased number of municipal violation tickets being written by federally-funded law enforcement in some communities. These municipal charges are filed in the associate circuit courts, which are responsible for handling the cases, but there is no increase in clerical staff to handle the increased workload. In some communities, this increase has been very significant, and the clerks are unable to process the cases in the most timely manner.

The Commission recommends that the legislature consider the "ripple effect" of the legislation it passes to avoid creating a workload that cannot be handled by the present staff, and that it remains committed to funding FTE contained in fiscal notes after legislation is passed. The Commission also supports the request for additional FTE contained in the FY 99 Circuit Court budget request.

#### CLERICAL TRAINING

The role of the clerk has become increasingly more complex and sophisticated. Until recently, training that is commensurate with the increasing need for sophistication had not been provided. However, the FY 98 budget included an appropriation for \$214, 243 for the establishment of a clerk academy. This project is well underway, including the establishment of a New Clerk Orientation Program and plans for a lending library for court personnel. Additionally, training programs are in progress on new electronic systems and are in the planning stages for juvenile court personnel.

SB 248 (1997) creates a fund in the state treasury, into which is deposited 2% of state and local judicial branch salaries, with funds coming from state fee receipts. Moneys in this fund are to be expended for training of state and local judicial personnel, including judges, clerks, juvenile officers and personnel, and court reporters. An appropriation must be obtained in the FY 99 budget to allow the expenditure of these funds.

The Commission supports an appropriation to fully fund the education and training programs envisioned in SB 248.

#### JURY MANAGEMENT

Courts continue to experience difficulty assembling jury pools and the public continues to regard jury service as too burdensome. Improving juror compensation, providing better accommodations, insuring jurors' safety, and making jury duty a more positive experience remain important goals. In the past year, there has been no progress relating to improving compensation. However, at least two of the metropolitan courts have instituted policies designed to provide protection for jurors. These include escorting jurors to their vehicles and keeping identifying information confidential both during and after a trial.

The Commission recommends that the General Assembly consider legislation which improves the compensation and protection of citizens asked to perform service as jurors.

#### CIRCUIT CLERKS

The position of circuit clerk is a highly responsible position which is critical to the efficient operation of the circuit courts. Appointment of all circuit clerks would provide personnel with the required qualifications for this office.

The Commission recommends the appointment of all circuit clerks.

#### COURTHOUSE FACILITIES

Courts lack facilities to accommodate senior and transferred judges, lack jury facilities and clerical work space. These problems will become more acute as automation progresses and courts need adequate wiring and space for computer hardware. Some courts are still not in compliance with the Americans with Disabilities Act (ADA). An informal survey of presiding judges conducted for this report indicates that, while many courthouses are in compliance or in the process of being in compliance, there are still a number that are not.

Additionally, effective courthouse security is lacking in the majority of Missouri's courts. The report of the Court Security Committee, submitted to the Supreme Court in August 1996, recommended that the Office of State Courts Administrator seek an appropriation to fund a Director of Court Security within the office. A decision item for this position was included in the FY 98 budget request. It was not appropriated, but is included again in the FY 99 request.

One solution to many of the courthouse problems may be regional justice centers. This concept is discussed in the "Emerging Issues" portion of this report. (See page 7.)

**The Commission supports the Office of State Courts Administrator's budget request for an appropriation to fund a Director of Court Security within the office. The Commission also recommends that all courthouses be brought into compliance with the ADA at the earliest possible time.**

#### MUNICIPAL COURTS

Municipal courts handle municipal ordinance violations. Section 479.020 RSMo provides that "Any city, town or village, including those operating under a constitutional or special charter, may, and cities with a population of four hundred thousand or more shall, provide by ordinance or charter for the selection, tenure and compensation of a municipal judge or judges...." (Where a municipal judge has not been appointed or elected, associate circuit judges hear municipal cases.) Municipal judges in Kansas City are appointed under the non-partisan court plan. In municipalities with a population under 7,500, municipal judges are not required to be attorneys. At present, about 25% of the 336 municipal judges are non-lawyers. Many municipal courts operate relatively autonomously. While the presiding judge of the circuit has superintending authority, in fact many courts are unsupervised until a problem develops. Because the municipal courts are the only courts that many citizens have contact with, and municipal judges have the authority to assess monetary fines and jail sentences, the Commission recommends that municipal judges meet the high standards of the rest of the judiciary.

A revolving fund has been authorized by the General Assembly to handle moneys sent from municipalities to pay for municipal court training programs developed by the Office of State Court Administrator.

**The Commission recommends that all municipal judges should be attorneys. The Commission also recommends that the General Assembly appoint a Joint Committee to study this issue. Specifically, the committee should study the administration, training and standards for the municipal courts. Any recommendations coming out of this process should be jointly addressed by the judicial, legislative and state and local executive branches.**

#### JUVENILE FACILITIES AND TREATMENT SERVICES

The number of children entering the juvenile justice system continues to increase, as does the number of children certified to stand trial as an adult. There is a lack of treatment and detention facilities for certified and other levels of juvenile offenders. The legislative requirement that state agencies share data is difficult because the juvenile system is not automated.

Some significant progress, however, has been made in 1997. The legislature approved funding for a Division of Juvenile and Adult Programs in the Office of State Courts Administrator in 1997. Currently, six FTE constitute the division and a budget request has been submitted for three additional FTE so that the office can comply with the legislative requirements provided for in HB 174 (1995). The lack of treatment and detention facilities for juveniles could be addressed in part by the establishment of regional justice centers. (See page 7.) At present, some juvenile officers have to travel many miles to place a juvenile in a suitable facility. The Supreme Court Family Court Committee continues to examine areas that fall under the jurisdiction of the Family Court.

**The Commission supports the Office of State Courts Administrator in its budget request for additional FTE to allow it to comply with the legislative requirements for juveniles imposed by HB 174.**

#### **COURT IMPROVEMENT PROJECTS**

Federal legislation has imposed requirements on states relating to child abuse and neglect cases. In other areas of juvenile law, problems remain with docketing and processing cases in a timely manner.

Missouri has responded to the federal requirements with legislation to bring state law into compliance. The Office of State Courts Administrator has begun pilot projects in the 2<sup>nd</sup> and 23<sup>rd</sup> judicial circuits to assess the problems and methods involved in, among other areas, expedited adoptions, dual planning, and a shorter time frame for termination of parental rights proceedings.

An appropriation was approved to begin the permanency planning pilot project in the two judicial circuits, and funding is being sought in the FY 99 budget to continue the project to allow sufficient time to properly evaluate results to determine whether the project should be expanded to other circuits.

**The Commission supports the request for funding in the FY 99 budget to continue the permanency planning pilot project.**

#### **FAMILY COURTS**

Family Courts, established by statute in 1993, offer a means of coordinating many related judicial activities. Under the "umbrella" of the family court, domestic relations cases, adoptions, juvenile cases, adult abuse/child protection petitions, paternity cases and child support issues are handled by a single court whose primary purpose is to adjudicate these often-related cases.

In many courts, the programs developed by family courts remain unavailable to litigants and their families, as do the benefits gained from a more coordinated approach to the issues involved. Separate judges and clerks handle juvenile, adult abuse, domestic relations, and paternity cases, despite the fact that some of the cases overlap and could be best addressed as a whole. The present system places court clerical staff in situations which are more appropriate for trained professional staff, e.g., assisting with adult abuse petitions, discussing visitation problems, etc.

To date, family courts have been established in the 7<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup>, 16<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, and 31<sup>st</sup> circuits, and a family court is planned in the 23<sup>rd</sup> circuit. An appropriation is being sought for mediation coordinators in the 16<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, and 31<sup>st</sup> circuits. While not directed solely at family court issues, the increased use of mediation should benefit domestic relations case processing and reduce the acrimony in many dissolution and child support disputes.

**The Commission recommends that, wherever possible and needed, family courts be established. It also recommends that adult abuse and child protection assistance be provided by someone other than a clerk, preferably a professional staff member. The Commission encourages presiding judges to adopt mediation programs, or an analogous program, in those domestic relations cases where children are involved.**

In addition to implementing revisions to Administrative Rule 17, the Time Standards Monitoring Committee offered a new service during FY 1997 to promote effective caseload management. The Committee created a task force consisting of four judges to review current case management procedures and make recommendations to improve procedures for those counties requesting a review. The Nineteenth Judicial Circuit was the first circuit to request the review, and served as a pilot site. The review involved a site visit from members of the task force as well as a reconciliation of case records to ensure accurate time standards statistics. The Time Standards Monitoring Committee plans on providing this service to additional circuits during the next year.

**No recommendation required other than that the courts continue to evaluate the progress of time standards implementation.**

#### **PUBLIC DEFENDER**

The historical challenge facing Missouri's Public Defender System has been retention of experienced attorneys. Four years ago nearly 20% of all Missouri Public Defenders resigned annually, usually citing low compensation as the reason. Recent funding increases improved attorney salaries, greatly improving retention. Today's attorney turnover rate is approximately 8% with exit interviews indicating compensation is no longer a major factor in an attorney's decision to leave the system. Today the average tenure of a Missouri Public Defender is approximately 4.5 years. The more experienced public defenders are providing better representation and have greatly contributed to a higher case disposition rate.

The caseload of Missouri's Public Defender System increased dramatically in FY 96, to 70,509 cases, up 15.5% from FY 95. Fortunately, this dramatic increase was not repeated in FY 97. There were 70,843 cases assigned in FY 97, virtually unchanged from the previous year. Still, projecting only 8% increases, Missouri's Public Defender System caseload will exceed 100,000 cases by the year 2002.

Installation of this Department's new computer system, compatible with the emerging State Courts Automation System, is nearly complete. All but one Missouri Public Defender office is now installed and on-line. The new Juvenile Public Defender office in St. Louis City which was approved by the Commission in September 1996 is improving juvenile court representation in St. Louis City and St. Louis County and providing a resource to other Missouri Public Defenders across the state. Statewide, the juvenile caseload of Missouri's Public Defenders increased 12.8% in FY 97.

Providing adequate, efficient office space for Missouri's Public Defender staff continues to be a challenge. Although establishing local public defender offices is the duty and responsibility of the State Public Defender Commission, RSMo 600.040.1 mandates the expense for local offices be the responsibility of the city or county served by that office. This statutory scheme has historically caused considerable conflict between this Department and local governments. Understandably, counties have objected to being forced to support a department of state government, particularly when the county has no say in the establishment or expansion of local public defender offices.

This past year the State Public Defender Commission sought a change to RSMo 600.040.1 and the funding to make the financial burden of office space a state, rather than county obligation. They were unsuccessful. Instead, the general assembly approved language to House Bill 5 which would allow the interception of county prisoner per diem refunds if that county was failing to meet its obligation under RSMo 600.040. The State Public Defender Commission will continue to seek the cooperation of county governments in this area and closely monitor the recent changes to House Bill 5 in the hopes county governments will comply with their statutory obligation.

## JUDICIAL RESOURCES ALLOCATION

The Commission recommends that the issue of allocation of judges should be jointly addressed by the judicial, executive and legislative branches at the earliest possible time so that caseloads among judges in the various circuits will be brought into better balance, and that caseloads be reviewed on a regular basis to insure that judicial resources continue to be properly allocated.

## SENIOR JUDGES

Section 476.682, RSMo provides the statutory basis for compensating senior judges the difference between their judicial retirement and the salary of the office for those days they sit as a senior judge pursuant to Supreme Court order. The senior judges provide assistance, where needed, for a fraction of the cost of a permanent judge.

In FY 97, 45 retired judges accepted assignments to serve as senior judges. They accepted period of time orders totaling 4983 days. Senior judges served for 2335 days in FY 97. This amounts to 467 weeks of judicial service provided by senior judges where vacancies had occurred due to retirement or illness, keeping dockets current until a replacement was appointed or in an effort by the court to remain current. Based on the statutory standard of 235 days equaling one year's service, senior judges provided over 9 judgeships in FY 97. In addition, senior judges were assigned to 173 individual cases that were for the most part multi-day jury trials or complex matters.

The long-time problem of a lack of full compensation for senior judges has been solved by a sufficient appropriation since FY 1997. However, senior judges continue to experience difficulties with inadequate courthouse space and facilities, including the absence of a court reporter in most instances. At present, official court reporters frequently cannot be freed from regular assignments to preserve lengthy or complex trials conducted by senior judges—the types of trials they are most likely to conduct. As a result, litigants willing to use a senior judge who wish to have a court reporter are required to pay for the related costs themselves. This is unfair, since other litigants who have similar cases heard by active circuit judges are not required to assume those costs.

The Commission recommends that adequate support services be provided for senior judges, including court reporters for lengthy or complex trials. The Commission recommends that presiding judges arrange for necessary facilities—court reporter, courtroom—in advance for a senior judge who has agreed to serve. The Commission commends the General Assembly for fully funding senior judge compensation and strongly supports future increases in appropriations as needed to accommodate the efficient utilization of the valuable resource made available by senior judges.

## TIME STANDARDS

Fiscal year 1997 was the first year that Missouri implemented revisions to Administrative Rule 17, "Case Processing Time Standards." The changes, effective January 1, 1997, were intended to simplify the Rule and make the standards more reasonable, based on feedback from public hearings as well as performance by circuits during previous years. As can be seen in the accompanying table (page 12), 36 of the 45 circuits were able to achieve one or more of the time standards during fiscal year 1997.

In its FY 99 budget request, the State Public Defender Commission has sought funding to implement new legislation and new court rules designed to allow Missouri to "opt in" to the Federal Habeas Reform Act. The State Public Defender Commission believes this funding is necessary to implement Senate Bill 56 and new court rules 29.16 and 24.036.

**The Commission recommends that, if Missouri "opts in" to the Federal Habeas Reform Act, adequate funding to implement the Act should be provided.**

#### ELECTRONIC COURTS/2004

The Request for Proposal (RFP) and subsequent award of contract for the statewide case management system was completed during this fiscal year. Three vendors were invited to on-site demonstrations of their products in Jefferson City. Demonstrations took place in January of 1997. These demonstrations lasted three days for each vendor and were attended by an average of 120 court representatives. Represented were the Supreme Court, all three appellate districts, and 44 counties.

On April 2, 1997, the Supreme Court of Missouri announced the award of a five year contract to Systems and Computer Technology (SCT) Corporation based in Lexington, Kentucky to supply software to Missouri's courts for processing civil, criminal, traffic, probate and appellate matters.

As soon as the contract was awarded, staff from SCT, the Office of State Courts Administrator and Missouri courts began the process of fitting the Banner software to Missouri court needs. Banner provides a flexible software platform which allows users (without programmer intervention) to define the codes, procedures (operating rules) and forms to meet many of the courts' requirements.

By January, 1998, it is anticipated that Banner will be installed in two of the pilot sites: Montgomery County (for financial and case management of all trial court case types) and the Court of Appeals - Eastern District. Jackson County (for civil and domestic relations cases) is scheduled for the third quarter of FY 1998.

Funding authority for the automation fund had been set to expire in 1999. Legislation enacted in 1997 extended the authority for the fund until 2004. The FY 99 budget contains a request for \$15 million to fully implement the vision of EC/2004.

**The Commission acknowledges the ongoing need to maintain the automation system, to expand the applications of the system, and to replace and maintain equipment. Therefore, the Commission supports funding what will be an indispensable service within the judiciary.**

#### EMERGING ISSUES

##### REGIONAL JUSTICE CENTERS

The county-based courthouse system currently in place in Missouri is inefficient and archaic as Missouri approaches the 21<sup>st</sup> century. The concept of regional justice centers has emerged in recent years as a means of modernizing the way justice-related facilities are developed. Ideally, regional justice centers should include, beside court facilities, space for a jail, the public defender, the prosecutor, and probation and parole. Besides the obvious efficiency of this concept, the regional justice center offers the potential of enormous cost savings to local governments, particularly as they relate to the cost of maintaining a jail and other detention facilities.

The governor has appointed a committee to research this issue and a preliminary study is in progress. A budget decision item may be placed in the Department of Public Safety budget for planning funds for one or more locations.

**The Commission supports the concept of a regional justice center. The Commission supports an appropriation of funds to allow two geographic areas to go forward with planning.**

#### **COURT CONSOLIDATION**

In some counties, separate clerks' offices, e.g., circuit, associate, probate, result in inefficient practices and confusion for the public.

The Circuit Court Budget Committee has in place a program to provide financial and technical assistance to courts wanting to consolidate clerks' offices. Consolidation involves the pooling under a single appointing authority, usually the circuit clerk, of all non-statutory state-paid positions assigned to the county and funded pursuant to 483.245, RSMo. To date, twenty-two counties have either consolidated or submitted agreements to do so.

**The Commission supports the concept of consolidated offices where feasible.**

#### **ALTERNATIVE DISPUTE RESOLUTION**

Delays caused by overcrowded dockets and the often high cost of litigation impede the courts' ability to dispense justice in the fairest manner possible.

A decision item has been included in the FY 99 budget request for an appropriation for ADR coordinators in the 16<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, and 31<sup>st</sup> circuits.

**No recommendation is made at this time.**

#### **NEW ELECTRONIC SYSTEMS**

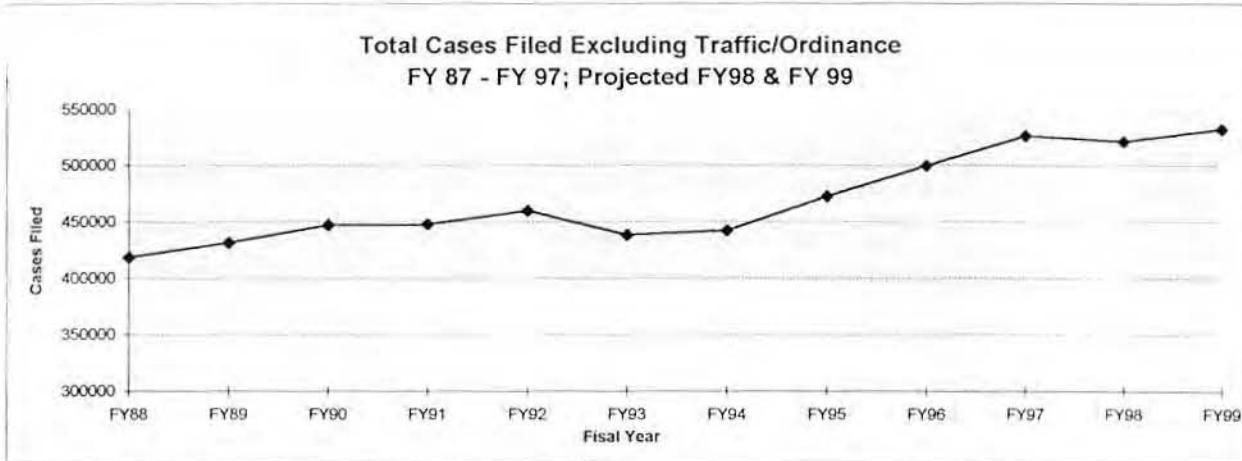
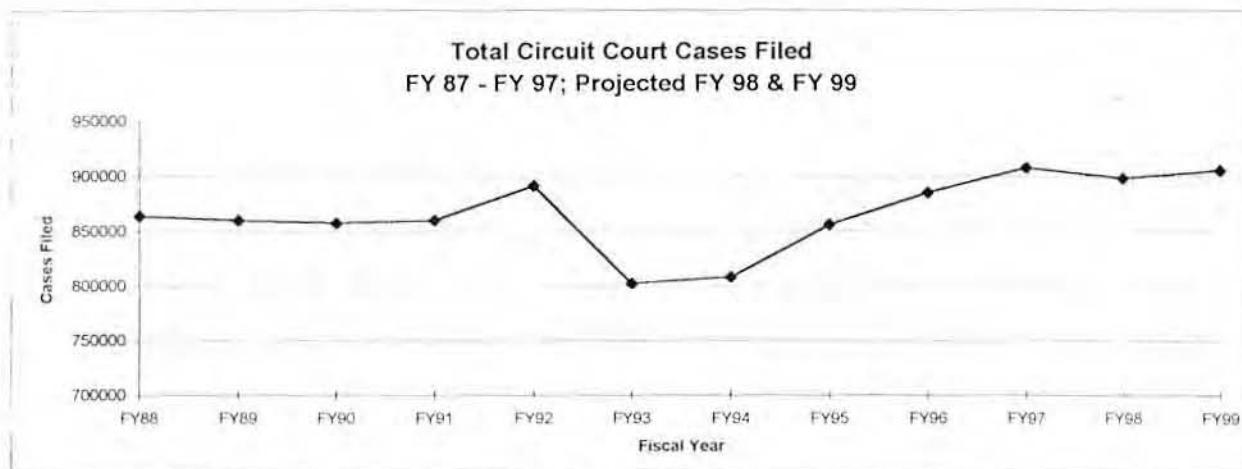
Three new electronic systems—MACCS, EC/2004, and SAM II—will create a significant workload impact on the courts during the initial stages of their installation.

A decision item for an additional 147.19 FTE has been included in the FY 99 budget request. This request is to enable courts to handle the current workload.

**No recommendation is made at this time.**

**REPORT OF THE COMMISSION ON JUDICIAL RESOURCES**  
**DECEMBER, 1997**

**OVERALL CASELOAD GROWTH**



The creation of the St. Louis County traffic court and the volatility of the high-volume state traffic caseload can be seen in the comparison of total case filings with and without traffic. Legislation shifted about 55,000 county ordinance cases to a new St. Louis County traffic court in 1993, and the state traffic case volume was down in FY 93 and FY94.

Please note: "Total Circuit Court Cases Filed" includes civil, criminal, juvenile, and probate statistics.

**Table 2**  
**Missouri Circuit Court**  
**Cases Disposed by Manner of Disposition**  
**FY 1997**

Case Type	----With Trial----		-----Without Trial-----				Total
	Jury	Court	Uncontested	Plea	Dismissed	*Other	
Civil	948	44,511	123,570	n/a	97,456	5,431	271,916
Criminal	872	1,932	n/a	101,362	47,963	33,889	186,018
Traffic/Ord./Municipal Cert./TDN	38	6,435	n/a	339,983	29,832	1,511	377,799
Total	1,858	52,878	123,570	441,345	175,251	40,831	835,733

\* Other includes such manners of disposition as change of venue, certification, and bind over of felony preliminary cases.

**Table 3**  
**Missouri Circuit Court**  
**Judge Transfers/Assignments**  
**FY 1997**

	No of Days	No of <u>Individual Case Assignments</u>	*Total Civil/ Criminal Cases <u>Disposed</u>
Transfers of Associate/ Circuit Judges	1,724	1,550	12,567
Senior Judge Assignments	4,963	184	6,127

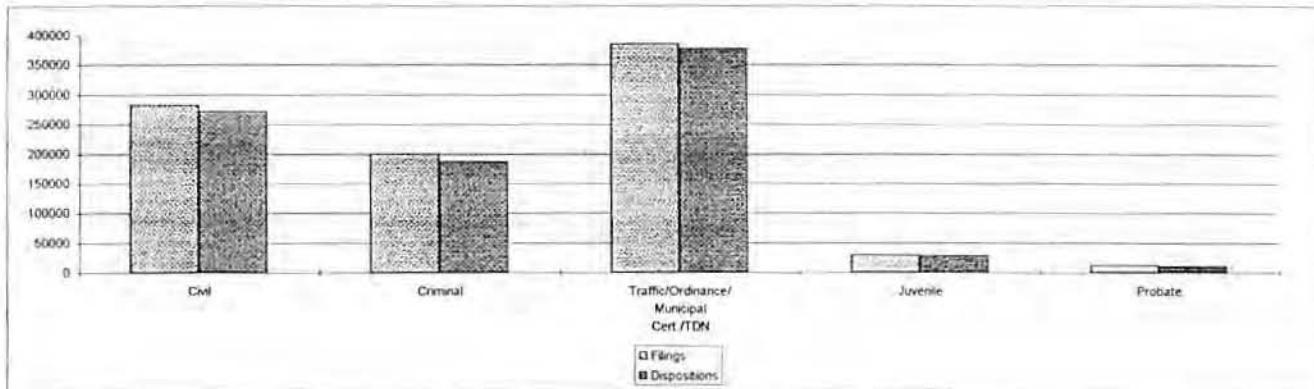
Note: Transfers/assignments are made for either specific periods of time or to handle individual cases. Numerous cases may be heard in a single period-of-time assignment.

\* Not available for traffic, probate or juvenile case types.

**REPORT OF THE COMMISSION ON JUDICIAL RESOURCES**  
**December, 1997**

**STATEWIDE CASELOAD, TRANSFER AND ASSIGNMENTS STATISTICS**  
**FY 1997**

**Graph 1**  
**Missouri Circuit Court**  
**Cases Filed and Disposed**  
**FY 1997**



**Table 1**  
**Missouri Circuit Court**  
**Cases Filed and Disposed by Case Type**  
**FY 1997**

<u>Case Type</u>	<u>Filed</u>	<u>Disposed</u>	*Disposition to Filing Ratio
Civil	282955	271916	0.96
Criminal	199110	186018	0.93
Traffic/Ordinance/ Municipal Cert./TDN	385198	377799	0.98
Juvenile	28656	27507	0.96
Probate	12141	11318	0.93
Total	908060	874558	0.96

\* This ratio, calculated by dividing the number of cases disposed by the number filed, gives an indication of how well the courts are keeping up with their workload. A ratio of 1.00 or greater indicates that the courts disposed at least as many cases as were filed. A ratio of less than 1.00 indicates that the courts disposed fewer cases than were filed and experienced an increase in pending caseload.

**CASE PROCESSING TIME STANDARDS**  
**AGE OF CASE AT DISPOSITION**  
**FY 1997**

Time Standard Category	Percent Standard for Age of Case at Disposition in the State	Actual Performance Statewide	Circuits Meeting Standard in FY 1997
<b>Circuit Civil</b>			
in 18 months	90%	78%	Circuits 14, 19, 36
in 24 months	98%	86%	Circuits 9, 14
<b>Domestic Relations</b>			
in 8 months	90%	82%	Circuits 13, 14, 19, 21
in 12 months	98%	89%	
<b>Circuit Felony</b>			
in 8 months	90%	85%	Circuits 3, 4, 5, 8, 9, 10, 13, 15, 18, 19, 27, 28, 29, 30, 32, 34, 35, 36, 41, 45
in 12 months	98%	93%	Circuits 5, 8, 9, 13, 18, 27, 30, 32, 36
<b>Associate Civil</b>			
in 6 months	90%	86%	Circuits 1, 2, 3, 6, 8, 9, 12, 13, 14, 15, 17, 18, 23, 24, 27, 28, 31, 33, 34, 35, 36, 39, 41, 42, 44, 45
in 12 months	98%	95%	Circuits 1, 2, 6, 8, 9, 11, 13, 14, 17, 21, 23, 24, 32, 33, 36, 37, 39, 41, 42, 44
<b>Associate Criminal</b>			
in 4 months	90%	79%	Circuits 2, 4, 10, 15, 18, 32, 35
in 6 months	98%	89%	Circuit 2